

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend regulations contained in Title 4, Division 9, Chapter 4, Registration of Service Agencies for Commercial Weighing and Measuring Devices, Section 4083 Examinations/Licenses. The proposed amendments along with minor editorial changes to Section 4083 will clarify and make specific the procedures for a service agent to obtain a license, renew current licenses, and replace lost or mutilated licenses.

A public hearing regarding this proposal is not currently scheduled. However, any interested person or duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be scheduled.

Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the Department of Food and Agriculture, upon its own motion or at the instance of any interested person, may thereafter adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828. Comments may also be submitted by facsimile (FAX) at (916) 229-3026 or by e-mail at DMS@cdfa.ca.gov. Comments must be submitted prior to 5:00 p.m. on June 27, 2005.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Legislature has charged the Department of Food and Agriculture with the responsibility of supervising weights and measures activities within California (Business and Professions Code, Division 5, Section 12100).

The Secretary of the Department of Food and Agriculture is granted the authority in Business and Professions Code, Division 5, Section 12027 to adopt such regulations as are reasonably necessary to carry out the provisions of the Business and Professions Code, Division 5.

The Department and the Division of Measurement Standards' Registered Service Agency Program are responsible for carrying out the provisions of the Business and Professions Code, Division 5, Section 12540 Service Agent Examination and Licensing, which establishes that applicants for a service agent license shall pass a written examination and pay a fee established by the Secretary of the Department of Food and Agriculture to recover costs of the examination administration before a license is granted by the Department. Every service agent shall be reexamined every five years, and to maintain a service agent license, the reexamination shall be taken and passed on or before the date on which the examination was last taken and passed. The current regulation does not provide for a renewal process or for the replacement of lost or mutilated licenses.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Secretary has determined that this proposal does not impose a mandate on local agencies or school districts.

The Secretary also has determined that this action will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, and no reimbursable costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposal will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the changes in the regulation on private persons and businesses will affect only those individuals who request a replacement service agent license. The replacement fee is significantly less than the fee to obtain a new license.

ASSESSMENT REGARDING EFFECT ON JOB/BUSINESSES

The Department has made an assessment that the proposed regulation may: (1) create jobs within California; (2) create new businesses within California; or (3) affect the expansion of businesses currently doing business in California; and (4) will not eliminate jobs or businesses within California.

ALTERNATIVES CONSIDERED

The Secretary must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE

Pursuant to Business and Professions Code, Division 5, Sections 12027 and 12540.

CONTACT PERSON

Inquiries regarding the notice or the substance of the proposed regulatory action may be directed to Roger Macey, Branch Chief, Division of Measurement Standards at (916) 229-3043. The back-up contact person is Ken Lake, (916) 229-3047.

EFFECT ON SMALL BUSINESS

The Department has made an assessment that the proposed regulations will affect small business. The effect of this regulation change ensures that applicants and businesses will follow a definitive procedure to renew current licenses and replace lost or mutilated licenses. The replacement fee is significantly less than the fee to obtain a new license.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action.

A copy of the statement of reasons, and the proposed regulation in ~~strikeout~~ and underline form may be obtained upon request. The rulemaking file, and all information on which the proposal is based, is located at the Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828, and may be obtained upon request. Additionally, all documents relating to this rulemaking file may be obtained from the Department's web site located at www.cdfa.ca.gov/dms.

Following the written comment period, the Department will adopt the proposal substantially as set forth above without further notice. If the regulation adopted by the Department differs from but is sufficiently related to the action proposed, it will be available to the public for at least 15 days prior to the date of adoption. Any interested person may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

A Final Statement of Reasons, when available, may be obtained by contacting Roger Macey, Branch Chief, Division of Measurement Standards, at (916) 229-3043.

DEPARTMENT OF FOOD AND AGRICULTURE

April 21, 2005

Date

(Original Signed By Deputy Secretary Valerie Brown)

Valerie Brown, Deputy Secretary